

EXCEPTION TO RULE

Purpose: To explain how, in certain circumstances, the department can grant exceptions to program rules. See the **INDEX** for the definition of rule.

Effective 2/12/00

WAC 388-440-0001 Exception to rule.

- (1) The secretary of the department, or designee, authorizes department staff to request an exception to a rule in the Washington Administrative Code (WAC) for individual cases, except as noted in subsection (5) of this section, when:
 - (a) The exception would not contradict a specific provision of federal law or state statute; and
 - (b) The client's situation differs from the majority; and
 - (c) It is in the interest of overall economy and the client's welfare; and
 - (d) It increases opportunities for the client to function effectively; or
 - (e) A client has an impairment or limitation that significantly interferes with the usual procedures required to determine eligibility and payment.
- (2) The secretary or the secretary's designee makes the final decision on all requests for exception to a rule.
- (3) Clients have no fair hearing rights as defined under chapter 388-08 WAC regarding exception to rule decisions by department staff.
- (4) Clients who do not agree with a decision on an exception to rule may file a complaint according to chapter 388-426 WAC.
- (5) This section does not apply to requests for noncovered medical or dental services or related equipment. See WAC 388-501-0160.

WAC 388-440-0005 Exception to rule--Notification requirement.

- (1) Clients are notified in writing within ten days of:

- (a) The department staff's decision to file an exception to rule request; and
- (b) The department's decision to approve or deny an exception to rule request.
- (2) The notice will include the complaint procedures as specified in chapter 388-426 WAC.
- (3) This section does not apply to notification requirements for exception to rules concerning noncovered medical or dental services or related equipment. See WAC 388-501-0160.

CLARIFYING INFORMATION

1. The Secretary of DSHS has delegated the authority for approval of exceptions to rule to the Economic Services Administration, Community Services Division (Administrative Policy 4.01).
2. Direct requests for exceptions to procedures or policies that are not specified in rule to a supervisor.
3. Exceptions to rule may be considered for:
 - a. TANF;
 - b. General Assistance;
 - c. Medical assistance eligibility decisions (Note: Refer anyone requesting an ETR for medical or dental services or related equipment to WAC 388-501-0160.)
 - d. ADATSA;
 - e. Child Care; and
 - f. WorkFirst.

4. The Secretary's Exception to Rule (ETR) Coordinator is located in CSD Headquarters.
5. Each CSO designates an Exception to Rule Coordinator.
6. Requests for Exception to Rule must accurately cite the rule that is being considered for an exception. Direct questions about the correct citation to a supervisor or the Secretary's ETR Coordinator in CSD headquarters.

WORKER RESPONSIBILITY

FSS/CASE MANAGER

1. Determine on a case by case basis, using the criteria in WAC 388-426-0001, whether a request for an exception is appropriate.
2. If no, send client ACES letter ETP3, (or DSHS 05-177) Exception to Rule not Initiated.
3. If yes:
 - a. Complete the ACES letter ETP1 (or DSHS 05-010(X)) [Rule] Exception Request, and send the original, with any supporting documentation, to CSO coordinator. Send the client an ACES letter ETP2 (or DSHS 05-177(x) Exception to [Rule] Requested.
 - b. Notify the client of the decision regarding the request B send ACES letter ETP4 (Approval) or ETP5 (Denial) or use DSHS 05-177(x).
 - c. Take action to authorize benefit if exception is approved.
 - d. Document actions on the case narrative, and retain completed ETR in case record.

ADATSA EXCEPTION

1. Requests for extension of treatment time or waiver of incapacity criteria are initiated by the assessment center. When a request is received:

- a. Complete requests (ACES letter ETP1 or DSHS 05-010(x)) for ADATSA exceptions and send the original, with supporting documents, to CSO exception coordinator. Send the client an ACES letter ETP2 (or DSHS 05-177(x)) Exception to [Rule] Requested.
 - b. Notify client of decision regarding the request B Send ACES letter ETP4 (Approval) or ACES letter ETP5 (Denial) or DSHS 05-177(x).
 - c. Notify the assessment center immediately when a decision is received on an ADATSA case.
 - d. Take action to authorize benefit if exception is approved.
2. Document actions on ACES narrative and retain completed ETR in case record.

CSO EXCEPTION COORDINATOR

1. Track exception requests on DSHS 2-168 (Exception to [Rule] Log) or in a computer file.
2. Send completed requests (ETP1 or DSHS 5-010(X)) to CSO Administrator or their designee, for endorsement signature.
3. Send original and one copy of request by FAX or mail to the Secretary's ETR Coordinator at Community Services Division Headquarters - MS 45440 - FAX 360-413-3491

SECRETARY'S ETR COORDINATOR

1. Track statewide exception requests/review for accuracy
2. Notify requesting local ETR coordinator of decision by email or telephone
3. Forward signed ACES letter ETP1 (or DSHS 05-010(X)) to CSO/Agency ETR Coordinator.

ACES PROCEDURES

If an exception is approved for an ongoing additional requirement, use the proper valid value (ET) on the AREQ screen to identify the payment as an exception to rule.

There is no valid value that can identify a case factor as an exception to rule. When benefits are authorized based on an exception to rule, processing alternatives may be necessary to obtain the correct eligibility results.

Document any processing alternatives or altered fields on the REMARKS screen (F9) behind the screen that contains the information relating to the exception.